

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
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No. 559

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No.: 2/LD/RC/18

Dated: 01/10/2018

NOTIFICATION

The following Ordinance which has been promulgated by His Excellency the President of India on the 19th day of September, 2018 and published in the Gazette of India, Extraordinary PART-II SECTION-1, dated 19th September, 2018 is hereby re-published for general information:-

**MINISTRY OF LAW AND JUSTICE
(Legislative Department)**

New Delhi, the 19th September, 2018/Bhadra 28, 1940 (Saka)

**THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE)
ORDINANCE, 2018
(NO. 7 OF 2018)**

**Promulgated by the President in the Sixty-ninth Year of
the Republic of India.**

**An Ordinance to protect the rights of married Muslim
women and to prohibit divorce by pronouncing *talaq* by
their husbands and for matters connected therewith or
incidental thereto;**

**WHEREAS the Muslim Women (Protection of
Rights on Marriage) Bill, 2017 has been passed by the
House of the People and is pending in the Council of
States;**

AND WHEREAS inspite of the fact that the Supreme Court has held in the matter of Shayara Bano *Versus* Union of India and others [Writ Petition (Civil) No. 118 of 2016] and other connected matters that the practice of *triple talaq* (*talaq-e-biddat*) as unconstitutional, the said practice is still continuing unabated;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to ~~take immediate~~ action to give effect to the provisions of the said Bill with certain modifications;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

Short title, extent and commencement.

1. (1) This Ordinance may be called the Muslim Women (Protection of Rights on Marriage) Ordinance, 2018.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) “electronic form” shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000.

(b) “*talaq*” means *talaq-e-biddat* or any other similar form of *talaq* having the effect of instantaneous

and irrevocable divorce pronounced by a Muslim husband; and

(c) "Magistrate" means a Judicial Magistrate of the First Class exercising jurisdiction under the Code of Criminal Procedure, 1973, in the area where the married Muslim woman resides.

2 of 1974.

CHAPTER II

DECLARATION OF *TALAQ* TO BE VOID AND ILLEGAL

3. Any pronouncement of *talaq* by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal.

Talaq to be void and illegal.

4. Any Muslim husband who pronounces *talaq* referred to in section 3 upon his wife shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Punishment for pronouncing *talaq*.

CHAPTER III

PROTECTION OF RIGHTS OF MARRIED MUSLIM WOMEN

5. Without prejudice to the generality of the provisions contained in any other law for the time being in force, a married Muslim woman upon whom *talaq* is pronounced shall be entitled to receive from her husband such amount of subsistence allowance for her and dependent children as may be determined by the Magistrate.

Subsistence allowan

6. Notwithstanding anything contained in any other law for the time being in force, a married Muslim woman shall be entitled to custody of her minor children in the

Custody of m
children.

event of pronouncement of *talaq* by her husband, in such manner as may be determined by the Magistrate.

Offence to be
cognizable,
compoundable, etc.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

2 of 1974

(a) an offence punishable under this Ordinance shall be cognizable, if information relating to the commission of the offence is given to an officer in charge of a police station by the married Muslim woman upon whom *talaq* is pronounced or any person related to her by blood or marriage;

(b) an offence punishable under this Ordinance shall be compoundable, at the instance of the married Muslim woman upon whom *talaq* is pronounced with the permission of the Magistrate, on such terms and conditions as he may determine;

(c) no person accused of an offence punishable under this Ordinance shall be released on bail unless the Magistrate, on an application filed by the accused and after hearing the married Muslim woman upon whom *talaq* is pronounced, is satisfied that there are reasonable grounds for granting bail to such person.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

K. C. Barphungpa (SSJS)
L.R.-cum-Secretary
Law Department